

APPEALS

PROPERTY TAX APPEALS

The elected Members of the Board of Equalization hear appeals of the assessed values of state-assessed properties, private railroad cars, and taxable properties owned by local governments but located outside their boundaries. The Board also hears appeals of timber tax decisions and welfare exemption claim denials. While disputes may be resolved through discussion with staff, the Board Members make the ultimate decision on all property tax appeals. All Board decisions are final.

In 2001-02, taxpayers filed 59 property tax appeals with the Board:

- 56 petitions from state-assessed public utilities.
- Three applications for review, equalization, and adjustment for local government properties.

SALES & USE TAX AND SPECIAL TAX & FEE APPEALS

Taxpayers who disagree with Board staff decisions regarding the imposition of sales or use tax or special tax and fee program assessments may seek resolution through the Board's administrative appeals process. After a taxpayer files a written appeal (petition for redetermination), the dispute may be resolved quickly through discussion with a Board auditor, or it may progress through a series of steps to a hearing before the elected Members of the Board.

Petitions for redetermination filed this year included

- 2,020 sales and use tax appeals
- 606 special taxes appeals

Taxpayers whose appeals are denied by the Board may seek further remedy by filing a timely claim for refund and if that is denied, an action in superior court. The agency also offers a settlement program for certain tax and fee disputes as well as an offer in compromise program for closed-out businesses who cannot pay the full tax or fee amounts they owe. For information on 2001-02 tax and fee settlements, please see [pages 30](#) and [39](#).



FRANCHISE TAX BOARD PROGRAM APPEALS

The elected Board Members serve as an administrative appeal body over final actions by the California Franchise Tax Board (FTB). In that capacity, the Board interprets and applies the state's franchise and income tax laws. The Board hears appeals filed under the

- Bank and Corporation Tax Law
- Personal Income Tax Law
- Homeowner and Renter Property Tax Assistance Law
- Taxpayers' Bill of Rights Law

If a taxpayer disagrees with a determination by the FTB, the taxpayer may appeal that determination to the Board. The Board's Appeals Section evaluates the issues of law and fact for each appeal based on the information provided by each party. The Board reviews the staff evaluation and any additional information found in the written record or provided at a hearing and makes a final determination. If the Board denies a taxpayer's appeal, the taxpayer may pursue the matter further by filing an action in superior court.

While any taxpayer dissatisfied with a final action of the Franchise Tax Board may file an appeal with the Board, taxpayers who have paid their tax liability may choose instead to file an action in superior court following final action by the FTB. Consequently, the appeal statistics in this section do not necessarily reflect the total number of California taxpayers who disputed a final action by the FTB in 2001-02.

Franchise and Personal Income Taxes

In 2001-02, the Board issued 637 decisions on appeals filed under the Bank and Corporation Tax Law and the Personal Income Tax Law. The Board considered 96 of these cases at oral hearings and decided the remaining appeals based upon a review of the written record. Ninety-one of the appeals were petitions for rehearing.

Homeowner and Renter Assistance

In recent years, the Legislature broadened the eligibility requirements and increased the assistance levels for the state's homeowner and renter assistance program. This has led many more lower-income aged, blind, and disabled Californians to apply for assistance. The increase in applications has resulted in a dramatic jump in the number of related appeals to the Board over the last few years. In 2001-02, the Board received 1,505 homeowner and renter assistance appeals, up from 410 in 1998-99.

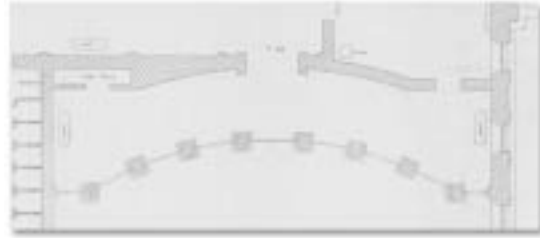
SIGNIFICANT COURT AND BOARD DECISIONS

Court Decisions

Corporate Dividend Income Deduction

Revenue and Taxation Code section 24402, which allows a corporation franchise (income) tax deduction for dividends paid by a corporation taxed by California, discriminates against interstate commerce and is therefore invalid.

Farmer Bros. Co. v. Franchise Tax Board
(Super. Ct., L. A. County, 2001, No. BC237663)



Same Sex Head of Household

The Board erred in granting the *Appeal of Helmi A. Hisserich*, decided November 1, 2000, which conferred head-of-household income tax filing status to a woman who claimed the unrelated child of her same-sex partner as her qualifying individual.

Proposition 22 Legal Defense and Education Fund v. State Board of Equalization, et al.
(Super. Ct., Sacramento County, 2001, No. 01CS00718)

Board Decisions

Manufacturer's Investment Credit

A Franchise Tax Board regulation was invalid because it added requirements for the Manufacturers' Investment Credit that were not found in the statute.

Appeal of Savemart Supermarkets & Subsidiary
(2002-SBE-002)

Proof of California Residency

A couple who had moved from California to Nevada was not subject to California income tax because their remaining California home was a winter residence only.

Appeal of Raymond H. and Margaret R. Berner
(2001-SBE-006)